

INTERNATIONAL LAW

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This course is an introduction to public international law for students of international relations. The primary purpose of this course is to enhance students' understanding of the ways in which international law orders international (and sometimes domestic) politics. How and to what extent has it been used in resolving conflicts between nations? How and to what extent has it facilitated the achievement of common goals? What is the relationship between international law and states' foreign policies? How does international law interact with domestic political and legal systems? Emphasis throughout the course is on the relationship between law and politics, on understanding why international law operates as it does, and on historical and recent episodes that illustrate the issues.

A special effort is made to relate the course material to international incidents and conflicts in the past decade or so: the use of drones; use of force for humanitarian purposes; the issue of war crimes and the formation of an International Criminal Court; the use of international human rights treaties in domestic law and politics; foreign investors' rights versus states' right to regulate economic activity in their jurisdiction; and how international trade law connects (or not) with the problem of climate change. A few of the readings are drawn from law journals and are therefore in a "legalistic" style. Most of the required readings, however, are by political scientists who are grappling with issues at the intersection of international law and international politics. Some reading is drawn from the popular press. In this course, students are encouraged to think politically rather than purely legalistically. Sometimes legal cases are provided to illustrate critical points in the development of international law, but should not be approached as legal precedents to be memorized for their own sake.

This is a lecture course with a significant discussion component. Those who take this course agree to treat discussion participation at least as seriously as they do exams. Weekly discussions are an opportunity to explore applications of international law to actual international incidents and issues. Additional reading assignments are made for section discussions. We expect all weekly reading to be completed before attending sections; in turn, we promise to help clarify any confusion resulting from the lectures or readings, and to provide as stimulating a setting as is possible for you to share ideas, air issues, and analyze cases. Your contribution to sections is as important as any other aspect of this course to its (and your) ultimate success.

Textbooks

- Morrow, James D. 2014. *Order within Anarchy : The Laws of War as an International Institution*. New York: Cambridge University Press.
- Simmons, Beth A. 2009. *Mobilizing for Human Rights: International Law in Domestic Politics*. New York: Cambridge University Press.

All readings are required. All readings that are not in the two course books are available through the course website. Note that you are not required to buy books from the Coop. Students are welcome to purchase in any format, new or used, electronic or paper, or not at all. But the readings are required and we will assume you have done them.

Grades

Grades will be determined on the basis of:

- Three substantive take home essay exams. The first two should be 5-7 pages; the third should be 8-10 pages (20%, 25%, 30% of your final grade respectively), due by 5 p.m. on October 9, November 6, and December 11. Note these are all Fridays.
- Section discussion participation and inner circle participation (25% of your final grade).

The first two substantive papers will draw primarily on the readings and should require minimal if any outside research. You will be given the questions one week in advance. The third paper will allow for (and indeed may require) additional research. We will therefore provide the questions on the first day of reading period and collect your answers on the day the final exam is scheduled.

Inner circle discussion is a question and answer session embedded within the lecture between the professor and 7-8 students. The twist: the professor gets to ask the questions, and discussion ensues. Focus is on the readings. Each student will be randomly assigned a date to participate in these in-class discussions, beginning September 10th.

Readings

Part I: THEORIES OF INTERNATIONAL LAW

September 3: Introduction: What Role for International Law?

- Beth Simmons, "International Law." Chapter 14, *Handbook of International Relations*. Sage Publications, 2012, pp. 352-378.
- Olson, Mancur. 1965. *The Logic of Collective Action: Public Goods and the Theory of Groups*. Harvard University Press: Chapter 1.

September 8: International Law and International Relations Theory

- Keohane, Robert O. 1982. "The Demand for International Regimes." In Simmons and Steinberg, pp. 18-39.
- Morrow, James D. 2014. *Order within Anarchy : The Laws of War as an International Institution*. New York: Cambridge University Press. Chs. 1-2 (pp. 1-57). [Grasp the logic, do not worry about the math or the equilibrium terminology. Focus on 1-11; 14-20; 23-40; 46-57.]
- Reus-Smit, Christian. 2004. "The Politics of International Law." In *The Politics of International Law*, edited by Christian Reus-Smit (Cambridge; New York: Cambridge University Press), pp. 14-24; 32-44.

September 10: Explaining the "Legalization" of International Relations

- Abbott, Kenneth W., Robert O. Keohane, Andrew Moravcsik, Anne-Marie Slaughter and Duncan Snidal. 2000. "The Concept of Legalization." *International Organization* 54(3), 401-19.
- Alter, Karen. 2014. "The New International Courts." Ch. 3 in *The New Terrain of International Law*. pp. 68-111.

September 15: Designing International Legal Agreements

- Koremenos, Barbara, Charles Lipson, and Duncan Snidal. 2001. "The Rational Design of International Institutions," *International Organization* 55(4): 761-799.
- Focus example: "Joint Comprehensive Plan of Action" 14 July 2015 (skim text online)
- Evaluate the effectiveness of the JCPOA based on what happened during the implementation phase: See the timeline in the following link, "Timeline: How tensions escalated with Iran since Trump withdrew US from nuclear deal," Jan. 8, 2020, *USA Today*. [Link](#).

September 17: Explaining Compliance

- Beth Simmons. 2010. "Treaty Compliance and Violation," *Annual Review of Political Science* 13: pp. 273-296.
- Chayes, Abram, and Antonia Handler Chayes. 1993. "On Compliance." In Simmons and Steinberg, pp. 65-91.
- Downs, George W, David M. Rocke, and Peter N. Barsoom. 1996. "Is the Good News About Compliance Good News About Cooperation?" In Simmons and Steinberg, pp. 92-111.

PART II: STRUCTURES AND MECHANICS

September 22: Sources of International Law: Treaties and Custom

- Slomanson, 1.2, pp. 26-38; 7.1 and 7.2, pp. 351-372.

- Lipson, Charles. 1991. “Why are Some International Agreements Informal?” *International Organization* 45(4): 495-538.
- Reference: Vienna Convention on the Law of Treaties:
http://untreaty.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf.

September 24: States: Sovereignty, Recognition, and Rights and Responsibilities

- Slomanson, 2.1-2.3; 2.5-2.6: pp. 45-59; 73-82
- Jackson, Robert H. 1987. “Quasi-States, Dual Regimes, and Neoclassical Theory: International Jurisprudence and the Third World.” *International Organization* 41:(4): 519-49.
- Fragile States Index:
<http://fsi.fundforpeace.org/rankings-2015>.

September 29: States and Non-state Actors in International Law

- Slomanson, pp. 15-19; 7.3, pp. 373-377.
- Keck, Margaret and Kathryn Sikkink. 1998. *Activists beyond Borders: Advocacy Networks in International Politics*. Cornell University Press: Chapter 1.
- Green, Jessica. 2013. Rethinking Private Authority: Agents and Entrepreneurs in Global Environmental Governance. Princeton University Press: Chapter 1.

October 1: Jurisdiction: which rules and whose authority where?

- Slomanson, 5.1-5.3, pp. 240-255; 260-271.
- Klein, Natalie. 2014. “Assessing Australia’s Push Back the Boats Policy under International Law: Legality and Accountability for Maritime Interceptions of Irregular Migrants.” *Melbourne Journal of International Law* vol. 15, pp. 414-43.
- Busch, Marc L. “Overlapping Institutions, Forum Shopping, and Dispute Settlement in International Trade.” *International Organization* 61.4 (2007): 735-761.

October 6: International Organizations: Focus on the United Nations

- Slomanson, 3.1-3.3, pp. 123-153.
- Abbott, Kenneth W., and Duncan Snidal. 1998. "Why States Act through Formal International Organizations." *Journal of Conflict Resolution* 42(1), 3-32.

October 8: International Courts and the Peaceful Settlement of Disputes

- Alter, Karen. 2014. “International Dispute Settlement.” Ch. 5 in *The New Terrain of International Law*. pp. 163-198.

- Reference: *The International Court of Justice: United Nations Charter, Chapter XIV: The International Court of Justice* —<http://www.un-documents.net/ch-14.htm>.
- Statute of the International Court of Justice —<https://www.icj-cij.org/>.

October 9: FIRST TAKE-HOME EXAM IS DUE ELECTRONICALLY BY 5PM.

PART III: THE SUBSTANCE OF INTERNATIONAL LEGAL REGULATION: The Use of Force, Human Rights and International Economic Law

October 13: From the GATT to the WTO.

- Slomanson, 13.2, pp. 579-588.
- Steinberg, Richard H. 2002. "In the Shadow of Law or Power? Consensus-Based Bargaining and Outcomes in the GATT/WTO." *International Organization* 56:(2): 339-74

October 15: Trade and Adjudication

- Davis, Christina. 2012. *Why Adjudicate? Enforcing Trade Rules in the WTO*. Princeton University Press: Chapter 1.
- Mansfield, Edward, Helen Milner, and Peter Rosendorff. 2002. "Why Democracies Cooperate More: Electoral Control and International Trade Agreements," *International Organization*, 56(3): 477-513.

October 20: International Law and the Promotion and Protection of International Investments

- Elkins, Zachary, Andrew T. Guzman, and Beth A. Simmons. 2006. "Competing for Capital: The Diffusion of Bilateral Investment Treaties, 1960-2000." *International Organization* 60 (4): 811-46.
- Simmons, Beth A. 2014. "Bargaining over BITs, Arbitrating Awards: The Regime for Protection and Promotion of International Investment." *World Politics* 66(01), 12-46.

October 22: The Environment: International Law, Economics and Climate Change

- Keohane, Robert O., and David G. Victor. 2011. "The Regime Complex for Climate Change." *Perspectives on Politics* 9(01), 7-23.
- DeSombre, Elizabeth R. 2000. *Domestic Sources of International Environmental Policy: Industry, Environmentalists, and US power*. MIT Press. Chapter 2.
- Tingley, Dustin. and Tomz, Michael. 2014. "Conditional Cooperation and Climate Change." *Comparative Political Studies*, 47(3), pp.344-368.

October 27: International Economic Law and Development

- Slomanson, 12.4, pp. 736-740.
- Gerhring, Markus. 2009. "WTO Law and Sustainable Development." *Routledge Handbook of International Law*, pp. 375-391.
- Helen Milner. 2005. "Globalization, Development, and International Institutions: Normative and Positive Perspectives," 3(4) *Perspectives on Politics*: pp. 833-854.
- *Reference*: UN Declaration on the Right to Development

October 29: Use of Force 1: International Law and Justifications for the Use of Force

- David Armstrong et al., "Use of Force." Ch. 4, pp. 125-160
- Morrow, James D. 2014. *Order within Anarchy : The Laws of War as an International Institution*. New York: Cambridge University Press. Chs. 4 (pp. 111-143, 144-145); 5 (read either WWI OR WWII; you do not need to read both).

November 3: Use of force 2: Warfare

- Fortna, Page. 2008. *Does Peacekeeping Work? Shaping Belligerents' Choices after Civil War*. Princeton University Press: Chapter 4.
- Weller, Mark. "Striking ISIL: Aspects of the Law on the Use of Force." March 11, 2015.
- On the 2017 U.S. airstrikes against the Syrian government see: Bellinger, John. 2017. "What Was the Legal Basis for the U.S. Air Strikes Against Syria?" [Link](#).

November 5: Individual Criminal Responsibility: Options for accountability

- Danner, Alison M, and Beth A Simmons. 2009. "The International Criminal Court" in *Routledge Handbook of International Law*. New York: Routledge. 239-46.
- Jo Hyeran, and Beth A. Simmons. 2016. "Can the International Criminal Court Deter Atrocity?" *International Organization* 70(3), 443-475.
- James Fearon, "How is the ICC Supposed to Work?" [Link](#).
- Allison, Simon. October 27, 2016. "African Revolt Threatens International Criminal Court's Legitimacy," *The Guardian*. [Link](#).

November 6: SECOND TAKE-HOME EXAM IS DUE ELECTRONICALLY BY 5PM.

November 10: New technology—Drones

- Harold Hongju Koh, "The Obama Administration and International Law," *Annual Meeting of the American Society of International Law*, 25 March 2010.
- O'Connell, Mary Ellen. 2010. "The International Law of Drones." <https://www.asil.org/insights/volume/14/issue/37/international-law-drones>.

- Kreps, Sarah, and John Kaag. 2012. "The Use of Unmanned Aerial Vehicles in Contemporary Conflict: A Legal and Ethical Analysis." *Polity* 44(2), 260-85.

November 12: Human Rights 1: The Individual and International Human Rights

- Beth A. Simmons. 2009. *Mobilizing for Human Rights: International Law in Domestic Politics* (New York: Cambridge University Press). Chapters 1 and 2.

November 17: Human Rights 2: Why Commit?

- Simmons. 2009. *Mobilizing for Human Rights*. Chapter 3.
- Cronin-Furman, Kate. 2020. "Human Rights Half Measures: Avoiding Accountability in Postwar Sri Lanka." *World Politics*, 72(1), pp.121-163.
- Andrew Moravcsik. 2000. "The Origins of Human Rights Regimes: Democratic Delegation in Postwar Europe." In Simmons and Steinberg, pp. 622-652.

November 19: Human Rights 3: Why Comply?

- Simmons. 2009. *Mobilizing for Human Rights*. Chapter 6.
- Hafner-Burton, Emilie M. "Trading Human Rights: How Preferential Trade Agreements Influence Government Repression." *International Organization* 59, no. 3 (2005): 593-629.

PART IV: INTERNATIONAL LAW FROM A BROADER PERSPECTIVE

November 24: International Law and Regions

- Moravcsik, Andrew. "Preferences and Power in the European Community: a Liberal Intergovernmentalist Approach." *JCMS: Journal of Common Market Studies* 31.4 (1993): 473-524.
- Hemmer, Christopher, and Peter J. Katzenstein. "Why is There No NATO in Asia? Collective Identity, Regionalism, and the Origins of Multilateralism." *International Organization* 56.3 (2002): 575-607.
- Focus case on Brexit: Barker, Alex. 2018. "Brexit Treaty: What the EU and UK Have Agreed. *Financial Times*. November 14. Available [here](#).

December 1: International Law in American Policies and Interests

- Ikenberry, G. John. 2017. "The Plot Against American Foreign Policy: Can the Liberal Order Survive?" *Foreign Affairs* 96(2): 2-9.
- Fagan, Moira, and Christine Huang. 2019. "United Nations Gets Mostly Positive Marks from People Around the World," *Pew Research Center*. Available [here](#).

- Rachman, Gideon. 2018. “America Rejects the World It Made.” *Financial Times*. January 29. [Link](#).

December 3: Conclusions: Law, Governance, and the Future of World Order

- Goddard, Stacie. 2018. “Embedded Revisionism: Networks, Institutions, and Challenges to World Order,” *International Organization* 72(4): 763-797.
- Bodansky, Daniel. 1999. “The Legitimacy of International Governance: a Coming Challenge for International Environmental Law?” *American Journal of International Law*: 596-624.
- Karen J. Alter, “International Law’s Legacy vs. The Cases of Ukraine and Syria,” *Huffington Post*, 27 March 2014.